REMARKS

This Amendment is in response to the Non-Final Office Action mailed on May 18, 2007, for the present application, which has been reviewed. The present claims considered together with the following remarks, the arguments below and request for reconsideration are believed sufficient to place the application into condition for allowance. No new matter has been added to the application. Applicants express appreciation for the thoughtful examination by the Examiner.

The present invention is a computer program for monitoring select Internet activities of a user of a selected computer to which the program is installed. The program acts as a voluntary monitoring program configured to monitor multiple Internet access activities, such as web browsing, file sharing programs, news groups, chat rooms, peer to peer chats, file transfer protocols, e-mails sent and received, and the like.

Rejection of Claims 1-4, 7, 9-13, 16, 18-20, 23, 24, 26 and 27 Under 35 U.S.C. §102 Should Be Withdrawn

The present Office Action rejects claims 1-4, 7, 9-13, 16, 18-20, 23, 24, 26 and 27 as being anticipated by Fulgoni et al. (U.S. Patent No. 7,181,412). Applicants respectfully traverse this rejection and request favorable reconsideration and withdrawal of this rejection. Further, Applicants submit this rejection is rendered moot by the following comments.

The standard for a rejection under 35 U.S.C. §102 is established in M.P.E.P. §2131. A claim is anticipated only if each and every element as set forth in the claim

is found, either expressly or inherently described, in a single prior art reference. If an independent claim is allowable under 35 U.S.C. §102, then any claim depending therefrom is also allowable.

Generally, Fulgoni relates to systems and methods useful for collecting data representative of consumer buying habits over networks. Fulgoni involves data collected by a user on the World Wide Webb and only involves a modification of the user's browser settings (col. 11, lines 47-53). No specific software application is involved and, in fact, Fulgoni states that such types of software applications are deficiencies in the art (col. 2, lines 27-35). Unfortunately, this type of application, where only a "small application software applet which adjusts the browser application running", actually prohibits monitoring of applications a user may seek to record. Fulgoni involves http protocols and only involves tracking use of a computer not a user. Fulgoni requires a proxy, which is a critical element of their invention. The proxy enables the monitoring of the computer without software.

In contrast, the present invention is an installed software program and seeks to record several other types of information that Fulgoni would be prohibited from collecting. As such, Applicant respectfully submits that Fulgoni appears not only to be unrelated art, but also mutually exclusive in its application in comparison to the prior art. In short, Fulgoni actually teaches away from the claimed invention.

Specifically, claim 1 of the present invention recites a software application that involves a computer communicatively connected to a remote server. Applicant submits that Fulgoni has no such element. In fact Fulgoni describes a computer that is connected to an intermediate device (a proxy) on the user's network that re-directs traffic to that remote server. Claim 1 of the present invention claims a voluntary monitoring program installed on the computer by a user. Again and in contrast,

Fulgoni describes this as undesirable (col. 2, lines 27-35). Fulgoni only describes a modification of an applet that merely modifies existing software. As is known in the art, an applet is usually a java script specifically designed to modify a browser. The present invention is independent of the browser. Further, claim 1 of the present invention:

> wherein said Internet access activity includes access to at least one Internet protocol from a group consisting of network news transfer protocols, file sharing programs, file transfer protocols, chat room access, peer to peer chats, and electronic mail activity.

None of these activities go through a browser as is required in Fulgoni. They are in fact different protocols. Fulgoni only describes collecting data on web page use (col. 12, lines 1-18). In both of these regards, Fulgoni teaches away from the present invention.

Specifically as to the rejection of claim 2, Applicants submit that claim 2 depends from claim 1, which is believed by Applicants to be in condition for allowance. Further, "said Internet activity" in the present invention refers to non-http activity in contrast to Fulgoni which describes http activity.

Specifically as to the rejection of claims 3, 4, 7, and 9: Applicants submit that they depend from claims which are believed by Applicants to be in condition for allowance. Again as described above, claim 9 describes Internet access activity different from that disclosed in Fulgoni.

Specifically as to the rejection of claim 10, Applicants submit that claim 10 depends from a claim which is believed by Applicants to be in condition for allowance. Further, Applicants respectfully submit that the present invention is in no way a "proxy server" (or even "multiple proxy servers") as that term is clearly known in the art.

Specifically as to the rejection of claims 11, 12, 13, 16, 19, 20, 23, 24, 26, 27: Applicants submit that they depend from claims which are believed by Applicants to be in condition for allowance. As to claim 18, Applicants submit that for reasons discussed above that this claim is also in condition for allowance and respectfully requests such allowance.

Rejection of Claims 5, 6, 8, 14, 15, 17, 21, 22, 25 and 28-40 under 35 U.S.C. §103 Should Be Withdrawn

The present action rejects 5, 6, 8, 14, 15, 17, 21, 22, 25 and 28-40 under 35 U.S.C. §103(a) as being unpatentable over Fulgoni et al. (US 7,181,412), in view of Linden et al. (U.S. Patent No. 6,912,505). Applicants respectfully traverse this rejection and request favorable reconsideration and withdrawal of this rejection. Further, Applicants submit this rejection is rendered moot by the foregoing and following comments.

First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings with the claimed specific properties. Second, there must be some reasonable expectation of success. Finally, the prior art reference must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must be both found in the prior art, and not based on applicant's disclosure. In re Vaeck, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). See M.P.E.P. 2142.

Generally, for reasons stated above, Applicants submit that Fulgoni is not related art to the present invention and in fact teaches away from the present invention of providing a software application to monitor non-browser related data. As such, Applicants submit that the 35 U.S.C. §103 rejections contained herein are rendered moot. Similarly, applying Linden to the present claims is similarly unrelated art in that Linden also uses browsers (see for example Linden claim 1, "generating . . . a history of products viewed by the user during online browsing" (emphasis added). In contrast, the present invention present invention does not use browsing. Given these submissions, Applicants respectfully request removal of the rejections to the present invention under 35 U.S.C. §103.

In addition to the general comments: As to the rejection of claim 5, Applicants again respectfully submit that Fulgoni collection of Internet activity includes none of the protocols of the present invention. As to the rejection of claim 21, please note that the "report" disclosed in Linden is a report of Internet activity.

CONCLUSION

Examiner noted that the prior art of record was considered pertinent to Applicants' disclosure. Applicants have reviewed the prior art of record and submit it does not adversely bear on the patentability of the pending claims.

In light of the foregoing, Applicants respectfully submit they have addressed each and every item presented by the Examiner in this Office Action. Favorable reconsideration of all of the claims as amended is earnestly solicited. Applicants submit that the present application, with remarks disclosed herein, is in a condition for allowance and respectfully request such allowance.

In the event any further matters requiring attention are noted by Examiner or in the event that prosecution of this application can otherwise be advanced thereby, a telephone call to Applicants' undersigned representative at the number shown below is invited.

The Patent Office is authorized to charge any fee deficiency or refund any excess to Deposit Account No. 04-1061.

Respectfully submitted,

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